

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

FILED  
2008 APR 21 AM 11:10

UNITED STATES OF AMERICA,

Plaintiff,

v.

Antonio URTUSUASTEGUI-Garcia,

Defendant

Magistrate Docket No.

'08 MJ 1212


COMPLAINT FOR VIOLATION OF: *FWH*

Title 8, U.S.C., Section 1326  
Deported Alien Found in the  
United States

The undersigned complainant, being duly sworn, states:

On or about **April 18, 2008** within the Southern District of California, defendant, **Antonio URTUSUASTEGUI-Garcia**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

  
SIGNATURE OF COMPLAINANT  
James Trombley  
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 21st DAY OF APRIL, 2008

  
Jan M. Adler  
UNITED STATES MAGISTRATE JUDGE

**CONTINUATION OF COMPLAINT:**  
**Antonio URTUSUASTEGUI-Garcia**

**PROBABLE CAUSE STATEMENT**

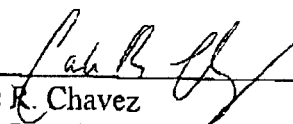
I declare under the penalty of perjury that the following statement is true and correct:

On April 18, 2008, Supervisory Border Patrol Agent J. Schwerr was conducting line watch operations near Dulzura, California. Agent Schwerr is currently assigned to the Brown Field Border Patrol Station and was performing his assigned duties in full rough duty uniform. At approximately 12:00 a.m., Agent Schwerr responded to a seismic sensor activation. This area is approximately eight miles north of the United States/Mexico International Border and twelve miles east of the Otay Mesa, California Port of Entry. Undocumented aliens attempting to further their illegal entry into the United States commonly use this area.


At approximately 12:05 a.m., Agent Schwerr arrived to the area of the seismic intrusion device and began to follow some footprints in the remote area. Agent Schwerr followed the footprints for approximately ten minutes when he encountered three individuals walking on the trail. Agent Schwerr approached the individuals and identified himself as a United States Border Patrol Agent in both the English and Spanish languages. Agent Schwerr then questioned each individual as to their immigration status. All the individuals, including one individual later identified as the defendant **Antonio URTUSUASTEGUI-Garcia**, admitted to being citizens and nationals of Mexico and not in possession of proper immigration documents that would allow them to be in or remain in the United States legally. The three individuals, including the defendant, were placed under arrest and transported to the Brown Field Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **April 13, 2007** through **Nogales, AZ**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

Executed on April 19, 2008 at 9:00 a.m.

  
\_\_\_\_\_  
Carlos R. Chavez  
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on April 18, 2008, in violation of Title 8, United States Code, Section 1326.

  
\_\_\_\_\_  
Jan M. Adler  
United States Magistrate Judge

4/19/08 @ 9:36 a.m.  
\_\_\_\_\_  
Date/Time